

Remarks

Upon entry of the foregoing Amendment, claims 1-44 are pending in this application. Claims 1, 15, 29, and 43 are amended; no claims are canceled or added. In view of the following Remarks, allowance of all the pending claims is requested.

Rejection Under 35 U.S.C. §§ 102 and 103

The Examiner has rejected claims 1-8, 10-22, 24-36 and 38-44 under 35 U.S.C. 102(e) as allegedly being anticipated by U.S. Patent No. 6,512,919 to Ogasawara. The Examiner has rejected claims 9, 23, and 36 under 35 U.S.C. 103(a) as allegedly being unpatentable over Ogasawara in view of U.S. Patent No. 6,026,375 to Hall et al. Applicants traverse these rejections because neither Ogasawara alone or in combination with Hall, disclose, teach, or suggest the claimed invention.

As set forth in previous responses filed March 24, 2004 and June 2, 2003, Ogasawara appears to require that a user first dial the telephone number of a server associated with a particular store to initiate the download of a purchase transaction program to the user's wireless telephone before the user can commence scanning bar codes of items to be purchased. Ogasawara does not disclose receiving any type of order data for an order when the user dials the server to initiate the download of a purchase transaction program. A program that may facilitate the ability to place an order is not itself an order as set forth in the claims.

The Examiner has attempted to "set forth another interpretation of the prior art of record relied upon (Ogasawara)" in an attempt to find the missing claim elements. See Office Action mailed October 18, 2004, page 5. Specifically, the Examiner alleges that "the server may send information (promotional and or discount information about product or services) to a user's wireless device." The Examiner apparently interprets this as the first order data claimed by Applicant. The Examiner further alleges that "the server acts as an intermediate component supplying the above information/data to the user's wireless device on behalf of the plurality of competing vendors/sellers." Even if the Examiner's allegations were correct, Ogasawara does not disclose receiving, at an

intermediary, first order data for an order from a mobile device, wherein the first order data identifies one or more products or services that a user desires to purchase. Following the Examiner's interpretation, it appears that a server supplies product data to a user's wireless device. The wireless device of Ogasawara does not transmit order data to an intermediary.

However, solely in an effort to expedite prosecution and in no way conceding the merits of the Examiner's rejection, claim 1 has been amended to clarify that the intermediary is disposed between and separate from the mobile device and the plurality of merchants. Claims 15, 29, and 43 have been similarly amended. Thus, independent claims 1, 15, 29, and 43 as amended are clearly not anticipated by Ogasawara.

Dependent claims 2-8, 10-14, 16-22, 24-28, 38-42, and 44 depend from and add features to one of claims 1, 15, 29, and 44. Thus, for at least the reasons set forth above, these claims are not anticipated by Ogasawara.

With regard to claims 9, 23, and 37, Hall does not make up for the deficiencies of Ogasawara set forth above with regard to claims 1, 15, and 29. Thus, the combination of Ogasawara and Hall does not teach and/or suggest the features of claims 9, 23, and 37. As such, claims 9, 23, and 37 are patentable over Ogasawara and Hall.

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Reply and Amendment

Conclusion

Having addressed each of the foregoing rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

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Respectfully submitted,



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